UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

EDWARD REYNIR SULLIVAN, Petitioner, v. JAMES TILTON, Secretary, Respondent.	Civil No. 08-0406 BEN (AJB) **ORDER SUA SPONTE SUBSTITUTING RESPONDENT**

On March 3, 2008, this case was transferred from the United States District Court for the Central District of California. At the time of filing, Petitioner was apparently housed at the California Rehabilitation Center and thus named Matthew Martell, Warden, as Respondent. Based on the notice of change of address Petitioner submitted to the Court on May 9, 2008, it appears Petitioner is no longer housed at the California Rehabilitation Center; rather, it appears he has been released from custody.

A writ of habeas corpus acts upon the custodian of the state prisoner. *See* 28 U.S.C. § 2242; Rule 2(a), 28 U.S.C. foll. § 2254. Accordingly, in order to conform with the requirements of Rule 2(a) of the Rules Governing § 2254 Cases and to avoid changing the Respondent again, the Court hereby sua sponte **ORDERS** the substitution of James Tilton, Secretary of the California Department of Corrections and Rehabilitation, as Respondent in place of "Matthew Martell." *See Ortiz-Sandoval v. Gomez,* 81 F.3d 891, 894 (9th Cir. 1996) (stating that the respondent in § 2254 proceedings may be the chief officer in charge of state penal institutions).

The Clerk of the Court shall modify the docket to reflect "James Tilton, Secretary" as respondent in place of "Matthew Martell."

IT IS SO ORDERED.

DATED: May 16, 2008

Hon. Anthony J. Battaglia
U.S. Magistrate Judge
United States District Court